

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CA

JAMES E. MOLLOY, Administrator of the )  
Estate of John P. Molloy, Deceased, and )  
DEANNA G. MOLLOY, )

Plaintiffs, )

vs. )

Case No. 4:01CV00808 RWS

DR. JAIME M. HENDERSON, DR. SONYA )  
N. JOSEPH, DR. MOHD A. MALIK, and )  
SAINT LOUIS UNIVERSITY, d/b/a/ )  
SLU Care, )

Defendants. )

**ORDER OF REMAND**

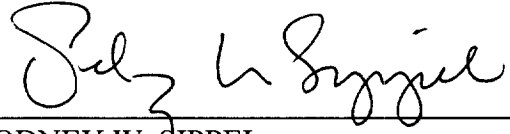
This matter is before the Court on Plaintiff's June 7, 2001 Motion to Remand Case to the State Court and Defendant Malik's June 7, 2001 Request to Withdraw Petition. Defendant Dr. Mohd A. Malik previously filed a Notice of removal alleging diversity jurisdiction under 28 U.S.C. § 1332(a), and removed this case from state court to this Court. While there may be diversity of citizenship between the parties, a case may be removed on the basis of diversity jurisdiction only when the defendants are the nonresident citizens. See 28 U.S.C. § 1441(b). Moreover, when removal authority does exist, it is a matter of right and does not result from a "petition" or motion that may be withdrawn.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's June 7, 2001 Motion to Remand Case to the State Court is **GRANTED**;

**IT IS FURTHER ORDERED** that Defendant Malik's June 7, 2001 Request to Withdraw Petition is **DENIED** as moot; and

**IT IS FURTHER ORDERED** that this cause is **REMANDED** to its state court of origin.

A handwritten signature in cursive script, reading "Rodney W. Sippel", written over a horizontal line.

RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 18<sup>th</sup> day of June, 2001.

UNITED STATES DISTRICT COURT -- EASTERN MISSOURI  
INTERNAL RECORD KEEPING

AN ORDER, JUDGMENT OR ENDORSEMENT WAS SCANNED, FAXED AND/OR MAILED TO THE  
FOLLOWING INDIVIDUALS ON 06/18/01 by cahring  
4:01cv808 Molloy vs Henderson

28:1332 Diversity-Medical Malpractice

|                        |                   |
|------------------------|-------------------|
| John Garavaglia - 3180 | Fax: 314-721-1474 |
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| Edward Rawles -        | Fax: 217-352-2109 |

d

Mariano V. Favazza, Clerk  
Circuit Court of the City of St. Louis  
State of Missouri  
11th and Tucker  
St. Louis, MO 63101

SCANNED & FAXED BY:

JUN 18 2001

DJO